

AMENDED IN ASSEMBLY AUGUST 18, 2015

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 376

Introduced by Senator Lara

(Coauthor: Senator Galgiani)

(Coauthors: Assembly Members Gonzalez and Thurmond)

February 24, 2015

An act to amend Section 10507.7 of, and to add Section 10507.6 to, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as amended, Lara. Public contracts: University of California.

Existing provisions of the California Constitution provide that the University of California constitutes a public trust and require the university to be administered by the Regents of the University of California (regents), a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes, including such competitive bidding procedures as may be applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Existing law requires the regents, except as provided, to let all contracts involving an expenditure of \$100,000 or more annually for goods and materials or services, excepting personal or professional services, to the lowest responsible bidder meeting certain specifications, or to reject all bids. Existing law,

until January 1, 2018, also authorizes the bid evaluation and selection for these contracts to be determined by the best value.

This bill would require a bidder, to qualify as a lowest responsible bidder or best value awardee on contracts for specified services, to certify in writing to the University of California (UC) that the bid includes a total employee compensation package that is valued on a per-employee basis at a level sufficient that it does not materially undercut the average per-employee value of total compensation for UC employees who perform comparable work at the relevant campus, medical center, or laboratory at which the bidder proposes to perform the work. The bill would require the UC to include in its request for proposals a calculation of the average per-employee value of total compensation for UC employees who perform comparable work at the relevant location, as prescribed. ~~The bill, with respect to contracts for services involving an expenditure of \$100,000 or more, would not except personal services from the lowest responsible bidder requirement.~~ The bill would require contracts for services involving an expenditure of \$100,000 or more annually to include any renewals or extensions of the contract that would result in an expenditure of \$100,000 or more annually.

This bill would exclude specified employees and public works from these provisions, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) It is a matter of statewide concern that responsible
- 3 competitive bidding at the University of California not undercut
- 4 the wages and benefits provided by the University of California
- 5 for comparable work, given that a significant percentage of
- 6 University of California employees already are eligible for public
- 7 benefits and any material decrease in the compensation of
- 8 employees performing such work would result in materially
- 9 increased General Fund costs for the provision of benefits.
- 10 (b) It is a matter of statewide concern that the University of
- 11 California not repeat past instances in which public resources have
- 12 been squandered via contracting out to for-profit private contractors
- 13 that charge significant administrative overhead.

SEC. 2. Section 10507.6 is added to the Public Contract Code, to read:

10507.6. (a) For the purposes of this article, to qualify as a lowest responsible bidder or best value awardee on any contract for building maintenance, cleaning, or custodial services, call center services, clerical services, dining and food services, gardening, grounds keeping and plant nursery services, laborer services, mailroom services, parking, shuttle bus, truck driving, or transportation services, security services, storekeeper services, patient care technical employee services, patient billing services, medical transcribing services, patient escort services, or nursing assistant services, a bidder shall certify in writing to the University of California that the bid includes a total employee compensation package, including fringe benefits, that is valued on a per-employee basis at a level sufficient that it does not materially undercut the average per-employee value of total compensation, including fringe benefits, for employees of the University of California who perform comparable work at the relevant campus, medical center, or laboratory at which the bidder proposes to perform the work.

(b) The University of California shall implement this section by including in its request for proposals a calculation of the average per-employee value of total compensation, including fringe benefits, for employees of the University of California who perform comparable work at the relevant campus, medical center, or laboratory, and that calculation shall use all known cost escalators to project the future rate of growth of average per-employee total compensation costs.

~~The~~

(c) *The* requirements of this section shall not apply to employees subject to Section 1191.5 of the Labor Code or Section 214(c) of Title 29 of the United States Code. Any employees covered by Section 1191.5 of the Labor Code or Section 214(c) of Title 29 of the United States Code shall be omitted from all calculations and certifications required by this ~~article~~ *section*.

~~(e)~~

(d) This section does not apply to any work subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 3. Section 10507.7 of the Public Contract Code is amended to read:

1 10507.7. (a) Except as provided for in this article, the Regents
2 of the University of California shall let all contracts involving an
3 expenditure of more than one hundred thousand dollars (\$100,000)
4 annually for goods and materials to be sold to the University of
5 California to the lowest responsible bidder meeting specifications,
6 or else reject all bids. Contracts for services to be performed, other
7 than *personal or* professional services, involving an expenditure
8 of one hundred thousand dollars (\$100,000) or more annually shall
9 be made or entered into with the lowest responsible bidder meeting
10 specifications, or else all bids shall be rejected. If the regents deem
11 it to be for the best interest of the university, the ~~regents~~, *regents*
12 *may*, on the refusal or failure of the successful bidder for materials,
13 goods, or services to execute a tendered contract, ~~may~~ award it to
14 the second lowest responsible bidder meeting specifications. If the
15 second lowest responsible bidder fails or refuses to execute the
16 contract, the regents may likewise award it to the third lowest
17 responsible bidder meeting specifications.

18 (b) For the purposes of this section, contracts for services
19 involving an expenditure of one hundred thousand dollars
20 (\$100,000) or more annually shall include any renewal or extension
21 of an existing contract, if the renewal or extension involves an
22 expenditure of one hundred thousand dollars (\$100,000) or more
23 annually.